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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 KOHEN DIALLO E. UHURU,

12 Plaintiff,

13 v.

14 J. BENAVIDEZ, et al.,

15 Defendants.
16

No. 2:22-CV-0784-TLN-DMC-P

ORDER

17 Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
18 42 U.S.C. § 1983. Pending before the Court is Plaintiff's motion, ECF No. 15, for leave to file a
19 first amended complaint to include additional allegations and exhibits.

20 The Federal Rules of Civil Procedure provide that a party may amend his or her
21 pleading once as a matter of course within 21 days of serving the pleading or, if the pleading is
22 one to which a responsive pleading is required, within 21 days after service of the responsive
23 pleading, see Fed. R. Civ. P. 15(a)(1)(A), or within 21 days after service of a motion under Rule
24 12(b), (e), or (f) of the rules, whichever time is earlier, see Fed. R. Civ. P. 15(a)(1)(B). Here,
25 Plaintiff seeks leave to amend a pleading to which a response is required. Because no response or
26 motion under Rule 12 has been filed, leave of court is not necessary and Plaintiff may amend as
27 of right. Plaintiff will be provided an opportunity to do so. Plaintiff is cautioned, however, that
28 the action will proceed on the original complaint if no first amended complaint is filed within the

1 time permitted therefor.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. Plaintiff's motion for leave to amend, ECF No. 15, is denied as
4 unnecessary;

5 2. Plaintiff may file a first amended complaint within 30 days of the date of
6 this order; and

7 3. If no amended complaint is filed, the action will proceed on the original
8 complaint.

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10 Dated: September 12, 2022



11 DENNIS M. COTA
12 UNITED STATES MAGISTRATE JUDGE
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